Basic information

2019/2204(INI) INI - Own-initiative procedure	Procedure completed
Implementation of Directive 2009/81/EC, concerning procurement in the fields of defence and security, and of Directive 2009/43/EC, concerning the transfer of defence-related products See also Directive 2009/43 2007/0279(COD) See also Directive 2009/81 2007/0280(COD) **Subject** 2.10.01 Customs union, tax and duty-free, Community transit 2.10.02 Public procurement 2.80 Cooperation between administrations 3.40.09 Defence and arms industry 6.10.02 Common security and defence policy (CSDP); WEU, NATO	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
IMCO Internal Market and Consumer Protection	SCHWAB Andreas (EPP)	06/11/2019
	Shadow rapporteur MIKSER Sven (S&D) SCHREINEMACHER Liesje (Renew) CORMAND David (Greens/EFA) FIDANZA Carlo (ECR) JORON Virginie (ID) KONEČNÁ Kateřina (GUE/NGL)	

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs	MIKSER Sven (S&D)	22/04/2020
ITRE Industry, Research and Energy	The committee decided not to give an opinion.	

Key events

Date	Event	Reference	Summary
19/12/2019	Committee referral announced in Parliament		
22/02/2021	Vote in committee		
08/03/2021	Committee report tabled for plenary	A9-0025/2021	Summary
25/03/2021	Decision by Parliament	T9-0102/2021	Summary
25/03/2021	End of procedure in Parliament		

Technical information	
Procedure reference	2019/2204(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Implementation
Amendments and repeals	See also Directive 2009/43 2007/0279(COD) See also Directive 2009/81 2007/0280(COD)
Legal basis	Rules of Procedure EP 55
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	IMCO/9/02103

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE658.808	09/10/2020	
Amendments tabled in committee		PE660.265	11/11/2020	
Committee opinion	AFET	PE657.437	11/12/2020	
Committee report tabled for plenary, single reading		A9-0025/2021	08/03/2021	Summary
Text adopted by Parliament, single reading		T9-0102/2021	25/03/2021	Summary

European Commission

Document type	Reference	Date	Summary
Commission response to text adopted in plenary	SP(2021)409	01/09/2021	

Implementation of Directive 2009/81/EC, concerning procurement in the fields of defence and security, and of Directive 2009/43/EC, concerning the transfer of defence-related products

2019/2204(INI) - 08/03/2021 - Committee report tabled for plenary, single reading

The Committee on the Internal Market and Consumer Protection adopted an own-initiative report by Andreas SCHWAB (EPP, DE) on the implementation of Directive 2009/81/EC, concerning procurement in the fields of defence and security, and of Directive 2009/43/EC, concerning the transfer of defence-related products. The report takes stock of the state of implementation of the two directives in order to allow the plenary to draw conclusions and make recommendations for concrete actions to be taken, both in terms of improving implementation and proposing possible legislative revisions.

Improving the functioning of the internal market for defence products through better implementation and enforcement of the defence package

Members reiterated their support for the ambitions of the defence package directives and stressed that the effective implementation of the directives is a step towards the EU's ambition of strategic autonomy and a European Defence Union. They pointed out, however, that a very high volume of procurement expenditure is still incurred outside the directive and that an overwhelming percentage of contracts are still awarded nationally.

Members considered that the effective implementation and enforcement of the Defence Procurement Directive remains a top priority and that, to this end, Member States should ensure equal treatment, transparency, competition and access to public procurement contracts.

The report also stressed the importance of having a genuine internal market for intra-EU transfers of defence-related products. It noted that take-up of the new tools, including general transfer licences (GTLs), is relatively low compared to individual transfer licences, which were to be replaced by the new tools.

The Commission is called on to be firm in its enforcement, including by making greater use of the right to initiate infringement proceedings, for example in the case of systematic use of exclusions.

Member States are asked for more systematic and comprehensive reporting of consistent, accurate and comparable data concerning their use of exemptions in order to improve scrutiny over and the implementation of the relevant Commission guidelines.

Tackling market fragmentation and increasing SME participation

The report noted that the level of SME participation in the defence market remains low. It called on Member States to follow the Commission's recommendation on access to cross-border defence markets for sub-suppliers and SMEs, in particular regarding the quality of information requirements, the division of contracts into lots or the alleviation of the administrative burden arising from the procurement procedure. The Commission is invited to improve SMEs' access to finance and to thoroughly examine the reasons why SMEs are not fully integrated into the single market for defence products.

Towards a European defence equipment market (EDEM)

Members considered that better implementation of the directives would enhance the effectiveness of defence initiatives launched in recent years, including the Permanent Structured Cooperation (PESCO), the Coordinated Annual Review of Defence (CARD), the EDF and the Capability Development Plan (CDP). They called on Member States to strengthen the EDEM by cooperating on projects under the PESCO and the EDF.

The Commission is invited to take specific actions to strengthen confidence between Member States in the field of defence and security in order to enhance their cooperation and create a genuine single market for defence products.

Member States are called upon to demonstrate political will by strengthening intra-EU defence procurement and research and development cooperation, as well as to use common procurement and research projects to boost interoperability between their militaries.

The report called for a more coherent implementation of the EU common position on arms exports and stresses the need for the Commission to present a strategy for a comprehensive EU-wide security of supply regime strategy, in order to establish a reliable and comprehensive European defence equipment market and an efficient defence sector.

Implementation of Directive 2009/81/EC, concerning procurement in the fields of defence and security, and of Directive 2009/43/EC, concerning the transfer of defence-related products

2019/2204(INI) - 25/03/2021 - Text adopted by Parliament, single reading

The European Parliament adopted by 470 votes to 96, with 121 abstentions, a resolution on the implementation of Directive 2009/81/EC concerning procurement in the fields of defence and security, and of Directive 2009/43/EC, concerning the transfer of defence-related products.

The Defence Package directives are needed to further develop a common European security and defence culture, based on the Union's shared values and objectives. However, progress is still needed to fully achieve the objectives of these directives: in addition to the usual hurdles to market entry, such as geographical distance, language barriers and lack of knowledge of cross-border markets, SMEs in the defence sector face major difficulties in participating in public procurement.

Improving the functioning of the internal market for defence products through better implementation and enforcement of the defence package

Members reiterated their support for the ambitions of the defence package directives but regretted the continued fragmentation of the EU's internal market for defence products, stressing that a very high volume of procurement expenditure is still incurred outside the directive and that an overwhelming percentage of contracts are still awarded nationally.

The systematic use by the Member States of the provisions relating to exclusion, in particular those laid down in Article 346 of the Treaty on the Functioning of the European Union (TFEU), could undermine the full and proper implementation of the Defence Procurement Directive.

Parliament considered that the effective implementation and enforcement of the Defence Procurement Directive remains a top priority and that, to this end, Member States should ensure equal treatment, transparency, competition and access to public procurement contracts.

As regards the Transfers Directive, the take-up of the new tools, including General Transfer Licences (GTLs), is relatively low compared to individual transfer licences. Lack of knowledge of the tools provided by the Directive, of the possibilities offered in the internal market and of the export control system used by Member States, in addition to the lack of harmonisation in the implementation of GTAs, are major obstacles to the effective application of the Directive.

The Commission is called on to be firm in its enforcement, including by making greater use of the right to initiate infringement proceedings, for example in the case of systematic use of exclusions.

Member States are asked for more systematic and comprehensive reporting of consistent, accurate and comparable data concerning their use of exemptions in order to improve scrutiny over and the implementation of the relevant Commission guidelines.

Tackling market fragmentation and increasing SME participation

Parliament noted that the level of SME participation in the defence market remains low and the certification processes are regarded as costly, lengthy and burdensome, and hence neither accessible nor attractive for SMEs. It called on Member States to follow the Commission's recommendation on access to cross-border defence markets for sub-suppliers and SMEs, in particular regarding the quality of information requirements, the division of contracts into lots or the alleviation of the administrative burden arising from the procurement procedure. The Commission is invited to improve SMEs' access to finance and to thoroughly examine the reasons why SMEs are not fully integrated into the single market for defence products.

The resolution suggests the creation of an updated map of relevant SME data that would allow Member States to identify SMEs with the necessary capacity for a given project.

Towards a European defence equipment market (EDEM)

Members considered that better implementation of the directives would enhance the effectiveness of defence initiatives launched in recent years, including the Permanent Structured Cooperation (PESCO), the Coordinated Annual Review of Defence (CARD), the EDF and the Capability Development Plan (CDP). They called on Member States to strengthen the EDEM by cooperating on projects under the PESCO and the EDF.

The Commission is invited to take specific actions to strengthen confidence between Member States in the field of defence and security. Member States are called upon to demonstrate political will by strengthening intra-EU defence procurement and research and development cooperation, as well as to use common procurement and research projects to boost interoperability between their militaries.

The resolution called for a more coherent implementation of the EU common position on arms exports and stresses the need for the Commission to present a strategy for a comprehensive EU-wide security of supply regime strategy, in order to establish a reliable and comprehensive European defence equipment market and an efficient defence sector.

Lastly, it recommended an appropriate analysis be carried out into what impact Brexit will have on the EU defence equipment market.